

**KANSAS STORAGE TANK PROGRAM
ABOVEGROUND STORAGE TANK OVERVIEW
October 26, 2004**



KANSAS DEPARTMENT OF HEALTH AND ENVIRONMENT

BUREAU OF ENVIRONMENTAL REMEDIATION

Storage Tank Section

1000 SW Jackson, Suite 410

Topeka, KS 66612-1367

Aboveground Tanks Regulated by the KDHE

The Kansas Department of Health and Environment, Bureau of Environmental Remediation (BER) is responsible for regulating releases from aboveground storage tanks (ASTs), as defined in the Kansas Storage Tank Act. Aboveground storage tanks are defined as having more than 90% of the tank volume, including piping located aboveground or above the floor of an underground area such as a basement.

Certain types of tanks are exempt from the authority of the KDHE. **Exempt tanks** include the following: (K.S.A. 65-34,103)

- Tanks containing petroleum products which are not liquid at standard temperature and pressure (60 degrees Fahrenheit and 14.7 pounds per square inch absolute). This exemption excludes propane, natural gas, and similar products from regulation by the KDHE under the Kansas Storage Tank Act. It also excludes most types of asphaltic materials which are solids at standard temperatures,
- Tanks located at crude oil production, transport, and refining facilities,
- Tanks associated with electrical equipment (e.g. transformers),
- Tanks containing agricultural materials regulated by the State Department of Agriculture (e.g. liquid fertilizers and pesticides),
- Small tanks, having less than 660 gallons capacity, used for business or retail purposes; or less than 1,100 gallons capacity and used for family farm or residential fuel supplies,
- Single family residence heating oil storage tanks, and
- Flow through process tanks.

Overall, KDHE requires registration of and AST Permits on all nonexempt ASTs that contain:

- Liquid petroleum product fuels: fuel oil, diesel, gasoline, kerosene, aviation fuels.
- Flammable or combustible liquids.
- Liquid hazardous substances listed in Table 302.4 of the Comprehensive Environmental Response Compensation, and Liability Act (CERCLA)

Requirements for New Tank Construction

Many ASTs fall under the requirements of both the Kansas Storage Tank Act and that of state and local fire codes. The KDHE and the Kansas State Fire Marshal Office (KSFMO) work closely together to permit and register new tanks so that they will comply with both the safety requirements of the fire code and the environmental protection goals of the KDHE.

New tank construction must be approved in advance by the KSFMO on forms they provide. The purpose is to provide the KSFMO with information that allows the agency personnel to verify that the new tank meets the applicable fire codes. The review process generally takes between two weeks and three weeks. Specific installation questions on ASTs need to be directed to the KSFMO at 785-296-0661 or 785-296-3401.

KSFMO will issue an approval letter to either the tank owner or to the construction contractor that submits the application on the owner's behalf. KSFMO then sends a copy of the approval letter to KDHE. KDHE will send an "Aboveground Storage Tank System Initial Registration" form to the tank owner to be returned with a signature and fee payment.

Registration and Permitting of Aboveground Tanks

The Kansas Storage Tank Act describes requirements for registration and permitting of existing and new ASTs. Registration of a tank provides the KDHE with required information concerning the tank's ownership, location, age, size, type, and associated equipment.

Tank owners obtain annual permits to operate ASTs by registering the tank and paying the annual fee of \$10 per tank per year. Owners receive annual registration renewal notices on November 15th for existing AST and must send the return portions to KDHE with fee payments by **December 31**. KDHE issues AST permits for a period of one calendar year: August 1 to July 31. Tank owners who do not have a permit available for inspection by bulk product deliverers may not be allowed to purchase product to place in the tanks. In addition, owners who have spills or leaks from unpermitted petroleum storage tanks may not be approved for reimbursement from the AST Petroleum Release Trust Fund, or may be required to pay a fine prior to being allowed access to the trust fund. Owners also must notify KDHE of changes in AST ownership and tank status.

Owners can register new ASTs any time of the year. No reduction or prorating of the annual fee is provided; each permit costs \$10, and is valid from its date of issue until the following July 31. Tank owners or contractors who submit tank notification forms to KDHE for tanks older than 1994 should enclose payment for the initial permit with their submittal. Permits will be effective on the day that the permit is placed in the mail. Payment method for the permits is prescribed by K.A.R. 28-44-29, and must be by a check or money order payable to the Kansas Department of Health and Environment.

According to Kansas Administrative Regulation 28-44-29 (b), **"After March 1, 1994, a regulated substance shall not be placed in an aboveground storage tank unless a valid permit is openly displayed at the facility."** Anyone engaged in any activity that violates 28-44-29 (b) is subject to fines in an amount of up to \$10,000 per violation, especially if you are discovered to be operating unpermitted

storage tanks during a KDHE inspection of your facility. Such activity includes (1) accepting delivery of regulated products into storage tanks lacking permits [the delivery company is also subject to a fine], (2) storing regulated products in storage tanks lacking permits, and (3) dispensing of regulated products from storage tanks lacking permits.

Registration of small tanks

Owners or operators of tanks below the regulated size, which contain petroleum products, may register the tanks if they desire. No permit is required for these small tanks, and no charge is made for the registration. Registration will allow reimbursement from the trust fund to owners for approved corrective action associated with tank spills or leaks.

Secondary Containment

Secondary containment to contain 110% of the largest tank volume within the containment area is required for aboveground storage tanks that are regulated by the KSFMO. Contact the KSFMO for containment requirements. Overall, KDHE recommends that all permitted ASTs have some type of impermeable secondary containment system unless the ASTs are double-walled.

Secondary containment serves two purposes:

- Fire safety requires that burning liquids be contained in an isolated location away from structures, and should permit firefighters to approach the area safely;
- Environmental concerns require that petroleum and hazardous liquids not be permitted to cause widespread contamination by either seeping into the ground or by traveling on the surface to contaminate soil or water.

EPA Secondary Containment Requirements

The Environmental Protection Agency (EPA) requires secondary containment in addition to KSFMO requirements, for ASTs under the Oil Pollution Prevention Regulations. These regulations require many AST owners to maintain a Spill Prevention Control and Countermeasures Plan (SPCC Plan). These requirements apply to Owners and Operators of facilities engaged in drilling, production, gathering, storing, processing, refining, transferring or consuming oil or oil products providing:

1. The facility is non-transportation related,
2. Aboveground storage in a single container is in excess of 55 gallons, or an aggregate storage capacity is greater than 1320 gallons
3. Facilities, which, due to their location could reasonably expect spilled oil to reach waters of the United States.

All SPCC plans must be reviewed by a Kansas Licensed Professional Engineer. For additional information about the EPA SPCC Plan requirements call the EPA Region 7 office at 1 (800) 223-0425).

THE KANSAS PETROLEUM STORAGE TANK RELEASE TRUST FUNDS OVERVIEW

The Storage Tank Act establishes two separate Trust Funds, Aboveground and Underground, to assist owners and operators of storage tanks with the cost of remedial actions. Both funds are designed to provide financial assistance to owners and operators of facilities where contamination from petroleum storage tanks has occurred. The Trust Funds are financed from a \$.01 fee placed on each gallon of petroleum (except aviation fuel) product manufactured in or imported into the state. The funds will be abolished on July 1, 2014 by the sunset provision unless reenacted by the Legislature. Outlined below is a brief summary of the program.

Who Qualifies for Reimbursement from the State Trust Funds:

- Owners or operators of underground and aboveground storage tanks. Private businesses, local and state governments who own/operate petroleum storage tanks are eligible.
- To be eligible, the contamination at the site must have been discovered on or after December 22, 1988.
- Owners or operators of the following tanks may qualify for reimbursement:
 - ASTs storing fuel in farm or residential noncommercial tanks of 1,100 gallons or less,
 - ASTs used to store heating oil at a single family residences, or
 - ASTs less than 660 gallons but used to store petroleum fuels.

Who Does Not Qualify for Reimbursement:

- The Federal Government.
- Owners or operators who meet the federal criteria for self-insurance and whose leaking tank is located on a facility that is engaged in the refining or production of petroleum.
- Owners or operators who knowingly allow a release of petroleum to occur or who do not cooperate in conducting the appropriate corrective action.
- Owners or operators of storage tanks at pipeline facilities where releases have occurred.
- Owners of tanks containing non-petroleum products

How to Obtain Reimbursement from the State Trust Funds:

- Submit an application for assistance from the aboveground fund.
- KDHE Trust Fund Staff will prepare and provide the owner with a pre-approved corrective action plan at a time determined by the priority ranking system. The work-scope will be prepared to assist the owner or operator in obtaining the required competitive bids.
- Three bids for all work associated with the remedial action must be obtained and approved in writing by KDHE Trust Fund Staff prior to the work being conducted.
- KDHE offers a bid assistance program for those who prefer to have KDHE obtain bids for them.
- The applicant must sign a consent agreement with KDHE related to implementation of the corrective action under the applicable fund.

Compliance Requirements:

To avoid potential fines, all regulated storage tanks must be registered with KDHE and have current valid AST permits. At the time they are approved for Trust Fund assistance, storage tank owners or operators who are not in compliance will be fined based upon the following:

- Failure to register storage tanks: \$50.00 per storage tank
- Failure to cooperate with KDHE directives: \$2,500.00 per site
- Failure to report a Release \$2,5000.00 per site
- Operating storage tanks without a permit: \$2,000.00 per site

Note: Owners/Operators with Facilities having both AST's and UST's at the same site must also comply with all applicable UST Regulations.

Petroleum Storage Tank Release Trust Fund Site Ranking System:

Due to the overwhelming number of applications for assistance from the funds, KDHE has developed a ranking system that evaluates the risk associated with each site. This ranking system takes into account several factors related to each site to determine which sites pose the greatest risk to the public. Using the ranking system KDHE assigns a score to each site. This score will establish the order in which sites are investigated and remediated. By using this method KDHE can focus limited resources on resolving the greatest risks to the public.

Costs Covered by the State Trust Funds:

(Cost must be pre-approved in writing by KDHE Trust Fund staff prior to the start of work)

- Preparation of corrective action plans which address the extent of contamination.
- Investigation and assessment of the contamination or petroleum release.
- Disposal and treatment of contaminated soil, groundwater, and/or surface water.
- Removal of contaminants from soil, groundwater, and/or surface water.
- Monitoring of the soil, groundwater, and/or surface water and maintenance of the monitoring equipment.
- Restoration or replacement of public water supplies.

Costs Not Covered by the State Trust Funds:

- Repair, removal, replacement, or disposal of tanks, product in tanks, lines, or dispensers.
- Costs for the loss of business or costs for third party bodily injury or property damage.
- Work or costs not approved in writing by KDHE Trust Fund Staff prior to the work being conducted.

Deductibles:

The deductible for each release is \$3,000 plus \$500 for each tank (above and below ground) located at the site of the release.

Financial Limitations of the Trust Funds:

- For each petroleum release: one million dollars, less the deductible.
- For owners or operators who own less than 100 tanks: a total annual amount of \$1,000,000 for all sites owned or operated, less any deductibles.
- For owners or operators who own more than 100 tanks: a total annual amount of \$2,000,000 for all sites owned or operated, less any deductibles.

FOR FURTHER INFORMATION:

If you have questions or need copies of the application form please contact:

Kansas Department of Health and Environment (KDHE)
Bureau of Environmental Remediation
Storage Tank Section
1000 SW Jackson, Suite 410
Topeka, Kansas 66612-1367
(785) 296-1678

**STATE OF KANSAS
DEPARTMENT OF HEALTH AND ENVIRONMENT
PERMANENT ADMINISTRATIVE REGULATIONS
ARTICLE 44 - ABOVEGROUND STORAGE TANKS**

28-44-28. Aboveground storage tank fees. Fees required by K. A. R. 28-44-29 shall be in the form of a check or money order made payable to the Kansas Department of Health and Environment. (Authorized by and implementing K. S. A. 65-34, 105; effective Nov. 22, 1993)

28-44-29. Above ground storage tank operating permit. (a) Before a permit for an aboveground storage tank can be obtained or renewed, the owner shall comply with the following requirements.

(1) Each aboveground storage tank shall be registered with the department as required by K. S. A. 65-34,104. Registration shall be made on forms provided by the department, and shall include the following information**:

- a. Owner's name, address, and telephone number;
- b. facility address or location;
- c. tank status;
- d. tank age;
- e. tank capacity;
- f. tank system construction details; and
- g. product stored.

(2) An annual registration fee of \$10.00 per tank shall be paid to the department by each owner or operator of an aboveground storage tank prior to December 31 of each year; and

(3) A late notice fee of \$10.00 shall be charged for each facility which fails to submit the required fees prior to December 31 of each year.

(b) After March 1, 1994, a regulated substance shall not be placed in an aboveground storage tank unless a valid permit is openly displayed at the facility. (Authorized by and implementing K. A. S. 65-34,105 and 65-34, 106; effective Nov. 22, 1993.)

****Specific questions on the installation of New ASTs need to be directed to the KSFMO at (785) 296-0661.**

If you should need additional information regarding AST requirements, or if you need to register UST tanks within Kansas, you should contact the appropriate individual listed below:

CENTRAL OFFICE STAFF

Program Area		Telephone No.
General Program Information		(785) 296-1678
Aboveground Storage Tank Trust Fund		
Remedial Action	Greg Hattan	(785) 296-5931
Reimbursements	Mickey Trimble	(785) 296-5625
Aboveground Storage Tanks (ASTs)		
Unit Chief	Michael L. Pomes	(785) 296-1685
Registrations	Kristine Hicks	(785) 296-6372
AST Status	Cathy Herring	(785) 296-8061
Fees and Ownership Changes		
AST Upgrades, Approval	Mike Heim	KSFMO (785) 296-0661
Leaking ASTs		
Leak Reporting	Roger Boeken	(785) 296-1674
Site Assessments		District staff

DISTRICT STAFF

- Southwest District Office - Dodge City – (620) 225-0596
Douglas Doubek Env. Geologist Fax - 3731
Bruce Ard Env. Geologist
Scott Hughbanks Env. Technician
- South Central District Office - Wichita – (316) 337-6020
Kyle Parker Env. Geologist Fax - 6023
Meer Husain Env. Geologist
Stan Marcotte Env. Scientist
- Southeast District Office - Chanute – (620) 431-2390
William Thornton Env. Geologist Fax - 1211
- Northeast District Office** - Lawrence – (785) 842-4600
Dan Kellerman Env. Geologist Fax - 3537
Meredith Roth Env. Technician
Tom Winn Env. Geologist
- North Central District Office** - Salina – (785) 827-9639
Scott Lang Env. Geologist Fax - 1544
Howard Debauche Env. Geologist
- Northwest District Office** - Hays – (785) 625-5663
Bill Heimann Env. Geologist Fax - 4005
Darrell Shippy Env. Technician

